

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

AR EX FIGUEROA PHARMACY

AR EX PHARMACY MANCHESTER

AR EX PHARMACY

ROBERT A. GANTT

RICHARD A. FOSTER

CLAUDE ANTHONY REESE

JOSEPH SHEDRED ALEXANDER

Respondents.

Case No. 2516

OAH No. L 2006050778

DECISION AND ORDER AS TO RESPONDENT ALEXANDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 28, 2007.

It is so ORDERED February 26, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

WALLWILSONVAREX

By



WILLIAM POWERS
Board President

BILL LOCKYER, Attorney General
of the State of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General
SUSAN MELTON WILSON, State Bar No. 106092
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-4942
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2516

AR EX FIGUEROA PHARMACY
600 West Manchester Boulevard
Los Angeles, California 90044
owned by :
AR EX PHARMACIES INC.
Original Pharmacy Permit No. **PHY 14973**

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER
AS TO RESPONDENT
ALEXANDER**

and

AR EX PHARMACY MANCHESTER
600 West Manchester Boulevard
Los Angeles, California 90044
owned by:
AR EX PHARMACIES INC.
Original Pharmacy Permit No. **PHY 44568**

and

AR EX PHARMACY
3701 Stocker Street
Los Angeles, California 90008
owned by:
AR EX PHARMACIES INC.
Original Pharmacy Permit No. **PHY 19542**

and

AR EX PHARMACY
3701 Stocker Street
Los Angeles, California 90008
owned by:
AR EX PHARMACIES INC.

1 Original Pharmacy Permit No. **PHY 44567**)

2 and)

3 AR EX PHARMACY)
2829 S. Western Avenue)
4 Los Angeles, California 90048-3033)
owned by:)

5 AR EX PHARMACIES INC.)
Original Pharmacy Permit No. **PHY 41441**)

6 and)

7 ROBERT A. GANTT)
8 3701 Stocker Street)
Los Angeles, California 90008)

9 Original Pharmacist License)
10 No. **RPH 17807**,)

11 and)

12 RICHARD A. FOSTER)
13 320 West 122nd Street)
Los Angeles, California 90061)

14 Original Pharmacist License)
15 No. **RPH 21138**,)

16 and)

17 CLAUDE ANTHONY REESE)
18 1900 South Point View Street)
Los Angeles, California 90034)

19 Original Pharmacist License)
20 No. **RPH 22845**,)

21 and)

22 JOSEPH SHEDRED ALEXANDER)
23 3646 Virginia Road)
Los Angeles, California 90016)

24 Original Pharmacist License)
No. **RPH 17981**,)

25 Respondents.)
26 _____)

27 In the interest of resolving this matter in a manner consistent with the public
28 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,

1 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order, which
2 will be submitted to the Board for approval and adoption as the final disposition of the
3 Accusation with respect to Respondent JOSEPH SHEDRED ALEXANDER only¹.

4 PARTIES

5 1. At the time the Accusation was filed, Patricia F. Harris (Complainant),
6 was the Executive Officer of the Board of Pharmacy, and brought this action solely in her official
7 capacity. Virginia Herold is the current Interim Executive Office of the Board of Pharmacy. Both
8 are represented in this matter by Bill Lockyer, Attorney General of the State of California, by
9 Susan Melton Wilson, Deputy Attorney General.

10 2. On or about October 22, 1949, the Board of Pharmacy issued Original
11 Pharmacist License Number RPH 17981 to JOSEPH SHEDRED ALEXANDER (Respondent).
12 The Original Pharmacist License was in full force and effect at all times relevant to the charges
13 herein and expired on September 30, 2006, and has not been renewed.

14 3. Respondent is represented by Law Offices of Matthew C. Long , by Mr.
15 Matthew C. Long, Attorney at Law, 3580 Wilshire Boulevard, Suite 1785, Los Angeles,
16 California, 90010.

17 JURISDICTION

18 4. Accusation No. 2516 was filed before the Board of Pharmacy, Department
19 of Consumer Affairs (Board), and is currently pending against Respondent. The Accusation and
20 all other statutorily required documents were properly served to Respondent on or about
21 September 9, 2004. Respondent has timely filed his Notice of Defense contesting the
22 Accusation. The 6th and 7th causes of the Accusation were amended by interlineation by Order of
23 Administrative Law Judge Carolyn Magnuson on November 20, 2006. A copy of Accusation No.

24
25 ¹ The Board previously issued its Order resolving this Accusation as against all named
26 Respondents, but for Respondents Alexander and Richard A. Foster. Effective November 15,
27 2006, the Board accepted the surrender of Respondents Robert A. Gantt and Claude Anthony
28 Reese, and all named facility permits (Phy 14973, Phy 44568, Phy 19542, Phy 44567 and Phy
41441). A separate stipulation for resolution of this Accusation against Respondent *Foster* is also
submitted herewith for the Board's consideration.

1 2516, as amended by interlineation, is attached as **Exhibit A** and incorporated herein by this
2 reference.

3 ADVISEMENT AND WAIVERS

4 5. Respondent has carefully read, and understands the charges and allegations
5 of Accusation No. 2516, as amended. Respondent also has carefully read, and understands the
6 effects of this Stipulated Settlement and Disciplinary Order.

7 6. Respondent is fully aware of his legal rights in this matter, including the
8 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
9 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
10 the right to present evidence and to testify on his own behalf; the right to the issuance of
11 subpoenas to compel the attendance of witnesses and the production of documents; the right to
12 reconsideration and court review of an adverse decision; and all other rights accorded by the
13 California Administrative Procedure Act and other applicable laws.

14 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
15 each and every right set forth above.

16 CULPABILITY

17 8. Respondent JOSEPH SHEDRED ALEXANDER admits the truth of
18 paragraphs 1,2,3,10 through 33 inclusive, and allegations of paragraphs 35,36, and 37 pertaining
19 to dates post September 1, 1999, of Accusation No. 2516, as amended, and agrees that cause
20 exists for discipline and hereby surrenders his active license to practice Pharmacy in the State of
21 California, and hereby agrees to assume the status of "retired pharmacist" as defined in Business
22 and Professions Code section 4200.5, and agrees that he will pay to the Board, within thirty
23 (30) days of his execution of this agreement, the \$30.00 fee required to effect the referenced
24 change in status, per Business and Professions Code Section 4400(w).

25 9. Respondent Alexander understands that, as a result of the retirement of
26 his license, he may no longer engage in any activity for which a pharmacist's license is required.

27 10. Respondent Alexander further understands that after the retirement of his
28 license, should he apply to the Board to restore his license to active status, he shall be required

1 to take and pass the examination that is required for initial licensure with the Board.

2 11. Respondent Alexander understands that by signing this stipulation, he
3 enables the Board to issue an order accepting the surrender of his active license as final
4 disposition of the Accusation, without further process.

5 12. It is stipulated and agreed that the Board had incurred costs in the
6 investigation and prosecution of this matter within the meaning of Business and Professions
7 Code Section 125.3, and that a fair and reasonable portion of said costs attributable to
8 Respondent is the sum of Two Thousand, Five Hundred Dollars (\$2,500.00).

9 13. In consideration of this settlement agreement, Respondent Alexander
10 agrees to reimburse a portion of costs incurred by the Board in this matter by payment of the
11 sum of Two Thousand, Five Hundred Dollars (\$2,500.00) to the Board within 90 days of the
12 effective date of this order.

13 CONTINGENCY

14 14. This stipulation shall be subject to approval by the Board of Pharmacy.
15 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
16 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
17 without notice to or participation by the Respondent. By signing the stipulation, Respondent
18 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
19 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
20 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force
21 or effect, except for this paragraph, it shall be inadmissible in any legal action between the
22 parties, and the Board shall not be disqualified from further action by having considered this
23 matter.

24 15. The parties understand and agree that facsimile copies of this Stipulated
25 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
26 force and effect as the originals.

27 16. In consideration of the foregoing admissions and stipulations, the parties
28 agree that the Board may, without further notice or formal proceeding, issue and enter the

1 following Order in resolution of Accusation Number 2516, as amended, as against this
2 Respondent:

3 **ORDER**

4 IT IS HEREBY ORDERED that the active license of Respondent JOSEPH
5 SHEDRED ALEXANDER is surrendered and accepted by the Board of Pharmacy. The
6 surrender of this Respondent's active license and the acceptance of the surrendered license by the
7 Board shall constitute the imposition of discipline against this Respondent. This stipulation
8 constitutes a record of the discipline and shall become a part of the Respondent's license history
9 with the Board.

10 1. Respondent shall lose all rights and privileges as a Pharmacist in
11 California as of the effective date of the Board's Decision and Order.

12 2. Respondent shall cause to be delivered to the Board both his wall and
13 pocket license certificate on or before the effective date of the Decision and Order.

14 3. Respondent shall be permitted to assume the status of "retired pharmacist"
15 as defined in Business and Professions Code section 4200.5, upon payment of costs and fees,
16 per the stipulated settlement agreement.

17 4. Should Respondent ever apply for relicensure or petition for reinstatement
18 in the State of California, the Board shall treat it as a new application for licensure. Respondent
19 must comply with all the laws, regulations and procedures for licensure in effect at the time the
20 application or petition is filed, and all of the charges and allegations contained in Accusation No.
21 2516 shall be deemed to be true, correct, and admitted by Respondent when the Board
22 determines whether to grant or deny any such application or petition.

23 5. Respondent may not reapply for licensure for at least three years from the
24 effective date of this decision.

25 ///

26 ///

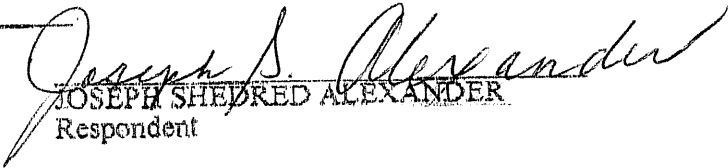
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1 ACCEPTANCE

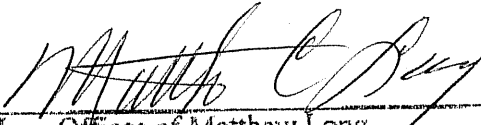
2 I have carefully read the Stipulated Settlement and Disciplinary Order. I
3 understand the stipulation and the effect it will have on my license. I enter into this Stipulated
4 Settlement voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and
5 Order of the Board of Pharmacy.

6
7 DATED: 1/5/08

8 
9 JOSEPH SHEPHERD ALEXANDER
Respondent

10 I concur in the Stipulated Settlement and Disciplinary Order.

11
12 DATED: 1-9-07

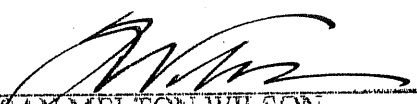
13
14 
15 Law Offices of Matthew Long
16 By: MATTHEW C. LONG
Attorney for Respondent Alexander

17
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

21
22 DATED: 1-19-07

23 BILL LOCKYER, Attorney General
24 of the State of California

25 
26 SUSAN MELTON WILSON
27 Deputy Attorney General
Attorneys for Complainant

28 BILLWILAREX ALEXANDER-FINAL

EXHIBIT A

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN MELTON WILSON, State Bar No. 106092
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-4942
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:) Case No. 2516
11 AR EX FIGUEROA PHARMACY)
600 West Manchester Boulevard) **A C C U S A T I O N**
12 Los Angeles, California 90044)
owned by :)
13 AR EX PHARMACIES INC.)
Original Pharmacy Permit No. **PHY 14973**)
14 and)
15 AR EX PHARMACY MANCHESTER)
16 600 West Manchester Boulevard)
Los Angeles, California 90044)
17 owned by:)
AR EX PHARMACIES INC.)
18 Original Pharmacy Permit No. **PHY 44568**)
19 and)
20 AR EX PHARMACY)
3701 Stocker Street)
21 Los Angeles, California 90008)
owned by:)
22 AR EX PHARMACIES INC.)
Original Pharmacy Permit No. **PHY 19542**)
23 and)
24 AR EX PHARMACY)
25 3701 Stocker Street)
Los Angeles, California 90008)
26 owned by:)
AR EX PHARMACIES INC.)
27 Original Pharmacy Permit No. **PHY 44567**)
28)

1 AR EX PHARMACY
2 2829 S. Western Avenue
3 Los Angeles, California 90048-3033
4 owned by:
5 AR EX PHARMACIES INC.
6 Original Pharmacy Permit No. **PHY 41441**

7 and
8 ROBERT A. GANTT
9 3701 Stocker Street
10 Los Angeles, California 90008
11 Original Pharmacist License
12 No. **RPH 17807**,

13 and
14 RICHARD A. FOSTER
15 320 West 122nd Street
16 Los Angeles, California 90061
17 Original Pharmacist License
18 No. **RPH 21138**,

19 and
20 CLAUDE ANTHONY REESE
21 1900 South Point View Street
22 Los Angeles, California 90034
23 Original Pharmacist License
24 No. **RPH 22845**,

25 and
26 JOSEPH SHEDRED ALEXANDER
27 3646 Virginia Road
28 Los Angeles, California 90016
Original Pharmacist License
No. **RPH 17981**,

Respondents.

Complainant alleges:
///
///

1 PARTIES

2 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
3 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
4 Affairs.

5 **AR EX FIGUEROA PHARMACY - 600 W. MANCHESTER BLVD.**

6 2. On or about June 6, 1969, the Board of Pharmacy issued Original
7 Pharmacy Permit No. PHY 14973 to Ar Ex Pharmacies, Inc., a corporation, licensed to do
8 business as AR EX FIGUEROA PHARMACY, located at 600 West Manchester Boulevard in
9 the City of Los Angeles. Said license was in full force and effect between date of issuance and
10 September 14, 2000 when a change of ownership occurred.

11 Corporate officers of record with the Board and pharmacist(s) in charge of PHY
12 14973 were ROBERT GANTT and CLYDE HATCH;

13 Pharmacist-in-charge of AR EX Figueroa between date of issuance and July 2,
14 1999 was CLYDE HATCH, deceased. Pharmacist in charge between August 24, 1999 and
15 September 14, 2000 was JOSEPH SHEDRED ALEXANDER.

16 **AR EX PHARMACY MANCHESTER - 600 W. MANCHESTER BLVD.**

17 3. On or about August 24, 2000, the Board of Pharmacy issued Original
18 Pharmacy Permit Number PHY 44568 to Ar Ex Pharmacies, Inc., to operate a pharmacy at the
19 former location of AR EX FIGUEROA PHARMACY, but with a different name, AR EX
20 PHARMACY MANCHESTER, at 600 West Manchester Boulevard, in the City of Los Angeles.

21 Corporate officers of record at all times mentioned herein between date of
22 issuance and August 24, 2000 were ROBERT GANTT and CLAUDE ANTHONY REESE JR.

23 Pharmacist-in-charge was JOSEPH SHEDRED ALEXANDER from date of
24 issuance through the present.

25 Said license was in full force and effect at all times relevant to the charges brought
26 herein and will expire on August 1, 2004, unless renewed.

27 ///

28 ///

1 **AR EX (STOCKER) - 3701 STOCKER STREET**

2 4. On or about June 21, 1977 the Board issued Original Pharmacy Permit No.
3 PHY 19542 to Ar Ex Pharmacies, Inc., a corporation, to do business as AR EX PHARMACY,
4 located at 3701 Stocker Street in the city of Los Angeles (hereinafter "**Ar Ex Stocker** "). The
5 license was canceled on September 14, 2000, but was in full force an effect at all times relevant
6 to the charges brought herein.

7 Corporate officers of record with the Board were ROBERT GANTT, and
8 CLYDE HATCH JR., deceased.

9 Pharmacist- in- Charge between October 10, 1987 and September 14, 2000 was
10 RICHARD FOSTER.

11 5. On or about August 28, 2000 , the Board of Pharmacy issued Original
12 Pharmacy Permit Number PHY 44567 to Ar Ex Pharmacies, Inc., to operate a pharmacy at the
13 same location, with the same name.

14 Corporate officers of record with the Board for PHY 44567 are ROBERT
15 GANTT, and CLAUDE ANTHONY REESE.

16 Pharmacist- in- Charge between date of issuance and the present is ROBERT
17 GANTT.

18 Said license was in full force and effect at all times relevant to the charges herein,
19 and will expire on August 1, 2004 unless renewed.

20 **AR EX (WESTERN) - 2829 S. WESTERN AVENUE**

21 6. On or about June 4, 1996, the Board of Pharmacy issued Original
22 Pharmacy Permit No. PHY 41441 to Ar Ex Pharmacies, Inc., a corporation, to do business as
23 AR EX PHARMACY, located at 2829 S. Western Avenue in the City of Los Angeles. Said
24 license was in full force and effect at all times relevant to the charges brought herein.

25 Corporate officers of record between September 27, 2000 and the present were
26 ROBERT GANTT and CLAUDE ANTHONY REESE.

27 Pharmacist- in- charge of PHY 41441 between September 27, 2000, and the
28 present is CLAUDE ANTHONY REESE.

1 7. On or about April 15, 1950, the Board of Pharmacy issued Original
2 Pharmacist License No. RPH 17807 to ROBERT A. GANTT (Respondent Gantt). The Original
3 Pharmacist License was in full force and effect at all times relevant to the charges herein, until
4 January 31, 2002, at which time a hold was placed on Respondent's license due to his failure to
5 comply with continuing education requirements. The license will expire on January 31, 2004,
6 unless renewed.

7 8. On or about July 25, 1959, the Board of Pharmacy issued Original
8 Pharmacist License Number RPH 21138 to RICHARD A. FOSTER (Respondent Foster). The
9 Original Pharmacist License was in full force and effect at all times relevant to the charges herein
10 and will expire on July 31, 2003, unless renewed.

11 9. On or about February 6, 1963, the Board of Pharmacy issued Original
12 Pharmacist License No. RPH 22845 to CLAUDE ANTHONY REESE (Respondent Reese).
13 The Original Pharmacist License was in full force and effect at all times relevant to the charges
14 herein, will expire on December 31, 2003, unless renewed.

15 10. On or about October 22, 1949, the Board of Pharmacy issued Original
16 Pharmacist License Number RPH 17981 to JOSEPH SHEDRED ALEXANDER (Respondent
17 Alexander). The Original Pharmacist License was in full force and effect at all times relevant to
18 the charges herein and will expire on September 30, 2004, unless renewed.

19 **AR EX EMPLOYEE(S)**

20 11. Original Pharmacist License Number RPH 37048 issued to STEPHANIE
21 A. MARTIN WILLIAMS was suspended, effective August 21, 1999, per the Board's order in
22 *Accusation vs Stephanie A. Martin Williams* (AC2300), and subsequently revoked in 2003.

23 **JURISDICTION**

24 12. This Accusation is brought before the Board of Pharmacy (Board), under
25 the authority of the following sections of the Business and Professions Code (Code).

26 13. Section 4300 of the Code permits the Board to take disciplinary action to
27 suspend or revoke a license issued by the Board.

28 ///

1 14. Section 118, subdivision (b), of the Code provides that the expiration of a
2 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
3 period within which the license may be renewed, restored, reissued or reinstated.

4 15. Section 4005 of the Code states:

5 “(a) The board may adopt rules and regulations, not inconsistent with the laws of
6 this state, as may be necessary for the protection of the public. Included therein shall be the right
7 to adopt rules and regulations as follows: for the proper and more effective enforcement and
8 administration of this chapter; pertaining to the practice of pharmacy; relating to the sanitation of
9 persons and establishments licensed under this chapter; pertaining to establishments wherein any
10 drug or device is compounded, prepared, furnished, or dispensed; providing for standards of
11 minimum equipment for establishments licensed under this chapter; and pertaining to the sale of
12 drugs by or through any mechanical device.

13 “(b) Notwithstanding any provision of this chapter to the contrary, the board may
14 adopt regulations permitting the dispensing of drugs or devices in emergency situations, and
15 permitting dispensing of drugs or devices pursuant to a prescription of a person licensed to
16 prescribe in a state other than California where the person, if licensed in California in the same
17 licensure classification would, under California law, be permitted to prescribe drugs or devices
18 and where the pharmacist has first interviewed the patient to determine the authenticity of the
19 prescription.

20 “(c) The board may, by rule or regulation, adopt, amend, or repeal rules of
21 professional conduct appropriate to the establishment and maintenance of a high standard of
22 integrity and dignity in the profession. Every person who holds a license issued by the board
23 shall be governed and controlled by the rules of professional conduct adopted by the board.

24 “(d) The adoption, amendment, or repeal by the board of these or any other board
25 rules or regulations shall be in accordance with Chapter 3.5 (commencing with Section 11340) of
26 Part 1 of Division 3 of Title 2 of the Government Code.”

27 ///

28 ///

16. Section 4081 of the Code states:

“(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

“(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.

“(c) The pharmacist-in-charge or exemptee shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not knowingly participate.”

17. Section 4059 of the Code states, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

18. Section 4076, subdivision (a), of the Code states:

“A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

“(1) Except where the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or

1 protocol, or the physician assistant who functions pursuant to Section 3502.1 orders otherwise,
2 either the manufacturer's trade name of the drug or the generic name and the name of the
3 manufacturer.

4 Commonly used abbreviations may be used. Preparations containing two or more
5 active ingredients may be identified by the manufacturer's trade name or the commonly used
6 name or the principal active ingredients.

7 “(2) The directions for the use of the drug.

8 “(3) The name of the patient or patients.

9 “(4) The name of the prescriber and, if applicable, the certified nurse-midwife
10 who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the
11 nurse practitioner who functions pursuant to a standardized procedure described in Section
12 2836.1, or protocol, or the physician assistant who functions pursuant to Section 3502.1.

13 “(5) The date of issue.

14 “(6) The name and address of the pharmacy, and prescription number or other
15 means of identifying the prescription.

16 “(7) The strength of the drug or drugs dispensed.

17 “(8) The quantity of the drug or drugs dispensed.

18 “(9) The expiration date of the effectiveness of the drug dispensed.

19 “(10) The condition for which the drug was prescribed if requested by the patient
20 and the condition is indicated on the prescription.”

21 19. Section 4113 of the Code states:

22 “(a) Every pharmacy shall designate a pharmacist-in-charge and within 30 days
23 thereof, shall notify the Board in writing of the identity and license number of that pharmacist
24 and the date he or she was designated.

25 “(b) The pharmacist-in-charge shall be responsible for a pharmacy’s compliance
26 with all state and federal laws and regulations pertaining to the practice of pharmacy.”

27 20. Section 4301 of the Code states:

28 “The board shall take action against any holder of a license who is guilty of

unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

“(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

....

“(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.”

21. Section 4328 of the Code states:

“Except as otherwise provided in this chapter, any person who permits the compounding or dispensing of prescriptions, or the furnishing of dangerous drugs in his or her pharmacy, except by a pharmacist, is guilty of a misdemeanor.”

22. Section 4329 of the Code states:

“Any non-pharmacist who takes charge of or acts as manager of any pharmacy or who compounds or dispenses a prescription or furnishes dangerous drugs except as otherwise provided in this chapter is guilty of a misdemeanor.”

23. Section 4330 of the Code states:

“(a) Any person who has obtained a license to conduct a pharmacy, who fails to place in charge of the pharmacy a pharmacist, or any person, who by himself or herself, or by any other person, permits the compounding or dispensing of prescriptions, or the furnishing of dangerous drugs, in his or her pharmacy, except by a pharmacist, or as otherwise provided in this chapter, is guilty of a misdemeanor.

“(b) Any non-pharmacist owner who commits any act that would subvert or tend to subvert the efforts of the pharmacist-in-charge to comply with the laws governing the operation of the pharmacy is guilty of a misdemeanor.”

1 24. Section 4342 states, in pertinent part, that:

2 “(a) The board may institute any action or actions as may be provided by law and
3 that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs
4 that do not conform to the standard and tests as to quality and strength, provided in the latest
5 edition of the United States Pharmacopoeia or the National Formulary, or that violate any
6 provision of the Sherman Food, Drug and Cosmetic Law.”

7 25. Health and Safety Code section 11153, subdivision (a) states:

8 “A prescription for a controlled substance shall only be issued for a legitimate
9 medical purpose by an individual practitioner acting in the usual course of his or her professional
10 practice. The responsibility for the proper prescribing and dispensing of controlled substances is
11 upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist
12 who fills the prescription.”

13 26. Health and Safety Code, section 11165, states:

14 “(a) To assist law enforcement and regulatory agencies in their efforts to control
15 the diversion and resultant abuse of Schedule II controlled substances, and for statistical analysis,
16 education, and research, the Department of Justice shall, contingent upon the availability of
17 adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy
18 Board Contingent Fund, the State Dentistry Fund, and the Osteopathic Medical Board of
19 California Contingent Fund, establish the Controlled Substance Utilization Review and
20 Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of
21 Schedule II controlled substances by all practitioners authorized to prescribe or dispense these
22 controlled substances. CURES shall be implemented as a pilot project, commencing on July 1,
23 1997, to be administered concurrently with the existing triplicate prescription process, to
24 examine the comparative efficiencies between the two systems.

25 “(b) The CURES pilot project shall operate under existing provisions of law to
26 safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be
27 provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil,
28 or criminal purposes and to other agencies or entities, as determined by the Department of

Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision, shall not be disclosed, sold, or transferred to any third party.

“(c) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.”

27. California Code of Regulations, title 16, section 1715.5 states:

“The collection of information authorized by Health and Safety Code section 11165 shall be provided as follows:

“(a) For each prescription for a Schedule II controlled substance, the dispensing pharmacy shall provide the following information: the full name and address of the patient; the gender and date of birth of the patient; the DEA (Drug Enforcement Administration) number of the prescriber; the triplicate prescription number; the pharmacy prescription number; the pharmacy license number; the NDC (National Drug Code) number and the quantity of the controlled substance; the ICD-9 (diagnosis code), if available; the date of issue of the prescription, the date of dispensing of the prescription, and the state medical license number of any prescriber using the DEA number of a government exempt facility.

“(b) The above information shall be provided in the following format:

“(1) For each pharmacy with the capacity to do so, by on-line transmission at least every 30 days and no later than the 18th calendar day of the month following the month in which the prescription is dispensed.

“(2) For each pharmacy which does not have the capacity to transmit the information on-line, on a three and one-half inch diskette in a ASCII format or one-half inch nine track magnetic 1600 BPI tape or any other medium approved by the Board of Pharmacy, which diskette, tape or medium shall be mailed or delivered to a location specified by The Board of

Pharmacy, at least every 30 days and no later than the 18th calendar day of the month following the month in which the prescription is dispensed.

"(3).For each pharmacy without the capacity to comply with either subsection (b)(1) or (2), the original triplicate shall be transmitted to the Department of Justice by the end of the month in which the prescription was filled.

"For each pharmacy which submits hard copy pursuant to this subdivision and which pharmacy averages more than 25 triplicate prescriptions per month in any six months, the Board of Pharmacy or its designee may thereafter require that pharmacy to comply with subsections (b)(1) and (2).

"(4) As to a prescription which is partially filled or dispensed, the period for compliance with subsections (1), (2), or (3) shall be measured from the earlier of the following dates and times: the prescription is either (1) completely dispensed or (2) can no longer be dispensed.

"(c) Every pharmacy which has made a submission as required by this section by July 18, 1998, shall receive a reduction of \$ 75 on its next renewal fee for licensure of the pharmacy by the board. Every pharmacy shall be in compliance with this section and Health and Safety Code section 11165 by September 18, 1998".

28. California Code of Regulations, title 16, section 1717, states:

"(a) No medication shall be dispensed on prescription except in a new container which conforms with standards established in the official compendia.

"Notwithstanding the above, a pharmacist may dispense and refill a prescription for non-liquid oral products in a clean multiple-drug patient medication package (patient med pak), provided:

"(1) a patient med pak is reused only for the same patient;

"(2) no more than a one-month supply is dispensed at one time; and

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1 "(3) each patient med pak bears an auxiliary label which reads, 'store in a cool,
2 dry place.'

3 "(b) In addition to the requirements of Section 4036, Business and Professions
4 Code, the following information shall be maintained for each prescription on file and shall be
5 readily retrievable:

6 "(1) The date dispensed, and the name or initials of the dispensing pharmacist. All
7 prescriptions filled or refilled by an intern pharmacist must also be initialed by the preceptor
8 before they are dispensed.

9 "(2) The brand name of the drug or device; or if a generic drug or device is
10 dispensed, the distributor's name which appears on the commercial package label; and

11 "(3) If a prescription for a drug or device is refilled, a record of each refill,
12 quantity dispensed, if different, and the initials or name of the dispensing pharmacist.

13 "(4) A new prescription must be created if there is a change in the drug, strength,
14 prescriber or directions for use, unless a complete record of all such changes is otherwise
15 maintained.

16 "(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist
17 shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the
18 prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial
19 the prescription to identify him or herself.

20 "All orally transmitted prescriptions shall be received and transcribed by a
21 pharmacist prior to compounding, filling, dispensing, or furnishing.

22 "Chart orders as defined in Section 4019 of the Business and Professions Code are
23 not subject to the provisions of this subsection.

24 "(d) A pharmacist may furnish a drug or device pursuant to a written or oral order
25 from a prescriber licensed in a State other than California in accordance with Business and
26 Professions Code Section 4005.

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1 "(e) No licensee shall participate in any arrangement or agreement, whereby
2 prescriptions, or prescription medications, may be left at, picked up from, accepted by, or
3 delivered to any place not licensed as a retail pharmacy.

4 "However, a licensee may pick up prescriptions at the office or home of the
5 prescriber or pick up or deliver prescriptions or prescription medications at the office of or a
6 residence designated by the patient or at the hospital, institution, medical office or clinic at which
7 the patient is present. The Board may in its sole discretion waive this application of the
8 regulation for good cause shown.

9 "(f) A pharmacist may transfer a prescription for Schedule III, IV or V controlled
10 substances to another pharmacy for refill purposes in accordance with Title 21, Code of Federal
11 Regulations, 1306.26.

12 "Prescriptions for other dangerous drugs which are not controlled substances may
13 also be transferred by direct communication between pharmacists or by the receiving
14 pharmacist's access to prescriptions or electronic files that have been created or verified by a
15 pharmacist at the transferring pharmacy. The receiving pharmacist shall create a written
16 prescription; identifying it as a transferred prescription; and record the date of transfer and the
17 original prescription number. When a prescription transfer is accomplished via direct access by
18 the receiving pharmacist, the receiving pharmacist shall notify the transferring pharmacy of the
19 transfer. A pharmacist at the transferring pharmacy shall then assure that there is a record of the
20 prescription as having been transferred, and the date of transfer. Each pharmacy shall maintain
21 inventory accountability and pharmacist accountability and dispense in accordance with the
22 provisions of Section 1716. Information maintained by each pharmacy shall at least include:

23 "(1) Identification of pharmacist(s) transferring information;

24 "(2) Name and identification code or address of the pharmacy from which the
25 prescription was received or to which the prescription was transferred, as appropriate;

26 "(3) Original date and last dispensing date;

27 "(4) Number of refills and date originally authorized;

28 "(5) Number of refills remaining but not dispensed;

1 "(6) Number of refills transferred.

2 "(g) The pharmacy must have written procedures that identify each individual
3 pharmacist responsible for the filling of a prescription and a corresponding entry of information
4 into an automated data processing system, or a manual record system, and the pharmacist shall
5 create in his/her handwriting or through hand-initializing a record of such filling, not later than
6 the beginning of the pharmacy's next operating day. Such record shall be maintained for at least
7 three years."

8 29. California Code of Regulations, title 16, section 1718 states:

9 "‘Current Inventory’ as used in Section 4232 of the Business and Professions
10 Code shall be considered to include complete accountability for all dangerous drugs handled by
11 every licensee enumerated in Section 4232."

12 30. Code of Federal Regulations, section 1301.7, states:

13 "(a) All applicants and registrants shall provide effective controls and
14 procedures to guard against theft and diversion of controlled substances. In order to determine
15 whether a registrant has provided effective controls against diversion, the Administrator shall use
16 the security requirements set forth in sections 1301.72-1301.76 as standards for the physical
17 security controls and operating procedures necessary to prevent diversion. Materials and
18 construction which will provide a structural equivalent to the physical security controls set forth
19 in sections 1301.72, 1301.73 and 1301.75 may be used in lieu of the materials and construction
20 described in those sections.

21 "(b) Substantial compliance with the standards set forth in sections 1301.72-
22 1301.76 may be deemed sufficient by the Administrator after evaluation of the overall
23 security system and needs of the applicant or registrant. In evaluating the overall security system
24 of a registrant or applicant, the Administrator may consider any of the following factors as he
25 may deem relevant to the need for strict compliance with security requirements:

26 "(1) The type of activity conducted (e.g., processing of bulk chemicals, preparing
27 dosage forms, packaging, labeling, cooperative buying, etc.);

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1 “(2) The type and form of controlled substances handled (e.g., bulk liquids or
2 dosage units, usable powders or nonusable powders);

3 “(3) The quantity of controlled substances handled;

4 “(4) The location of the premises and the relationship such location bears on

5 “(5) The type of building construction comprising the facility and the general
6 characteristics of the building or buildings;

7 “(6) The type of vault, safe, and secure enclosures or other storage system (e.g.,
8 automatic storage and retrieval system) used;

9 “(7) The type of closures on vaults, safes, and secure enclosures;

10 “(8) The adequacy of key control systems and/or combination lock control
11 systems;

12 “(9) The adequacy of electric detection and alarm systems, if any including
13 use of supervised transmittal lines and standby power sources;

14 “(10) The extent of unsupervised public access to the facility, including the
15 presence and characteristics of perimeter fencing, if any;

16 “(11) The adequacy of supervision over employees having access to
17 manufacturing and storage areas;

18 “(12) The procedures for handling business guests, visitors, maintenance
19 personnel, and non-employee service personnel;

20 “(13) The availability of local police protection or of the registrant's or
21 applicant's security personnel, and;

22 “(14) The adequacy of the registrant's or applicant's system for monitoring the
23 receipt, manufacture, distribution, and disposition of controlled substances in its operations.

24 “(c) When physical security controls become inadequate as a result of a
25 controlled substance being transferred to a different schedule, or as a result of a non-controlled
26 substance being listed on any schedule, or as a result of a significant increase in the quantity of
27 controlled substances in the possession of the registrant during normal business operations, the
28 physical security controls shall be expanded and extended accordingly. A registrant may adjust

1 physical security controls within the requirements set forth in sections 1301.72-1301.76 when the
2 need for such controls decreases as a result of a controlled substance being transferred to a
3 different schedule, or a result of a controlled substance being removed from control, or as a result
4 of a significant decrease in the quantity of controlled substances in the possession of the
5 registrant during normal business operations.

6 “(d) Any registrant or applicant desiring to determine whether a proposed
7 security system substantially complies with, or is the structural equivalent of, the requirements
8 set forth in sections 1301.72-1301.76 may submit any plans, blueprints, sketches or other
9 materials regarding the proposed security system either to the Special Agent in Charge in the
10 region in which the system will be used, or to the Compliance Division, Drug Enforcement
11 Administration, Department of Justice, Washington, D.C. 20537.

12 “(e) Physical security controls of locations registered under the Harrison
13 Narcotic Act or the Narcotics Manufacturing Act of 1960 on April 30, 1971, shall be deemed
14 to comply substantially with the standards set forth in sections 1301.72, 1301.73 and 1301.75.
15 Any new facilities or work or storage areas constructed or utilized for controlled substances,
16 which facilities or work or storage areas have not been previously approved by the
17 Administration, shall not necessarily be deemed to comply substantially with the standards set
18 forth in sections 1301.72, 1301.73 and 1301.75, notwithstanding that such facilities or work or
19 storage areas have physical security controls similar to those previously approved by the
20 Administration.”

21 31. Section 125.3 of the Code provides, in pertinent part, that the Board may
22 request the administrative law judge to direct a licentiate found to have committed a violation or
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
24 and enforcement of the case.

25 32. DRUG CLASSIFICATIONS

26 A. Dilaudid 4mg (hydromorphone) is a dangerous drug per Business and
27 Professions Code section 4022 and a schedule II controlled substance per Health & Safety Code
28 section 11055. It is a narcotic analgesic used to treat severe pain.

1 B. Empirin #3 and Empirin #4, a brand name for aspirin with Codeine, 30
2 mg. for #3 and 60 mg. for #4 and aspirin 500 mg., is a schedule III controlled substance as
3 designated by Health & Safety Code section 11056(e)(2) and is categorized as a dangerous drug
4 pursuant to section 4022 of the code.

5 C. Phenergan & Codeine (a brand name for promethazine with Codeine) is a
6 dangerous drug per Business and Professions Code section 4022 and a schedule V controlled
7 substance per Health & Safety Code section 11058. It is a narcotic analgesic, used to treat cough.

8 D. Seconal (secobarbital) is a dangerous drug per Business and Professions
9 Code section 4022 and a schedule II controlled substance per Health & Safety Code section
10 11055. It is a barbiturate used to treat insomnia.

11 E. Tussionex (a brand name for hydrocodone 10mg/ chlorpheniramine 8mg)
12 is a dangerous drug per Business and Professions Code section 4022 and a schedule III controlled
13 substance per Health & Safety Code section 11056. It is a combination narcotic product used to
14 treat cough.

15 F. Tylenol & Codeine 60mg (Acetaminophen & Codeine, T4) is a dangerous
16 drug per Business and Professions Code section 4022 and a schedule III controlled substance per
17 Health & Safety Code section 11056. It is a combination narcotic analgesic, used to treat
18 moderate pain.

19 G. Tylenol #3 and Tylenol #4, a brand name for Acetaminophen with
20 Codeine, 30 mg. for #3, 60 mg. for #4 with 500 mg. Acetaminophen, is a schedule III controlled
21 substance as designated by Health & Safety Code section 11056(e)(2) and is categorized as a
22 dangerous drug pursuant to section 4022 of the code.

23 H. Valium 10mg (a trade name for the chemical substance diazepam) is a
24 dangerous drug per Business and Professions Code section 4022 and a schedule IV controlled
25 substance per Health & Safety Code section 11057. It is a benzodiazepine used to treat anxiety.

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1 I. Vicodin ES (a brand name for hydrocodone 7.5mg and acetaminophen
2 750mg) is a dangerous drug per Business and Professions Code section 4022 and a schedule III
3 controlled substance per Health & Safety Code section 11056. It is a combination narcotic
4 analgesic, used to treat moderate pain.

5 **AR EX FIGUEROA PHARMACY**

6 FIRST CAUSE OF DISCIPLINE

7 **(Permitting Non-Licensee to Dispense Prescriptions)**

8 33. Respondents ROBERT A. GANTT and JOSEPH SHEDRED
9 ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined
10 in section 4301(j) and (o) in conjunction with section 4328, due to their conduct on November 10,
11 1999, in permitting Stephanie A. Martin Williams to take charge of and dispense prescriptions at
12 AR EX Figueroa, despite suspension of her pharmacy license two months earlier (by Order
13 effective August 21, 1999). At that time and place, Williams was the only pharmacist on duty.

14 SECOND CAUSE FOR DISCIPLINE

15 **(Permitting Non-Licensee to Dispense Prescriptions)**

16 34. Respondents AR EX FIGUEROA PHARMACY and ROBERT A.
17 GANTT are subject to discipline under section 4300 for unprofessional conduct as defined in
18 section 4301(j) and (o) in conjunction with section 4330, due to their conduct on November 10,
19 1999, in permitting Stephanie A. Martin Williams to take charge of and dispense prescriptions at
20 AR EX Figueroa, despite suspension of her pharmacy license two months earlier (by Order
21 effective August 21, 1999). At that time and place, Williams was the only pharmacist on duty.

22 THIRD CAUSE FOR DISCIPLINE

23 **(Failure to Implement Electronic Monitoring of Prescriptions)**

24 35. Respondents AR EX FIGUEROA PHARMACY, and ROBERT A.
25 GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for
26 unprofessional conduct as defined in section 4301(j) and (o) in conjunction with Health and
27 Safety Code section 1165 and 16 California Code of Regulations Section 1715.5, in that at no
28 time between September 18, 1998 (compliance date set out in implementing regulations) and

September 14, 2000 did Respondent comply with Section 1715.5 requirements to transmit electronic data to the Bureau of Narcotic Enforcement on a monthly basis, regarding dispensing of schedule II controlled substances.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain a Current Inventory)

36. Respondents AR EX FIGUEROA PHARMACY, and ROBERT A. GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4005 and 16 California Code of Regulations Section 1718 for failure to maintain a "current inventory", in that Respondents were unable to account for over 90,000 doses of schedule III controlled substances, and over 240 gallons of schedule V substances, dispensed between May 1, 1999 and November 23, 1999, as follows:

A. Commencing on November 10, 1999, a selected drug audit was performed by Board inspectors. The audit period was from May 1, 1999 through November 23, 1999. The audit revealed the following irregularities:

<u>DRUG</u>	<u>AMOUNT ORDERED</u>	<u>TOTAL</u>	<u>AMOUNT DISPENSED</u>	<u>AMOUNT TO BE ACCT'D FOR</u>	<u>STOCK ON HAND</u>	<u>AMT. OVER</u>	<u>AMT. SHORT</u>
Dilaudid 4 mg	2400	2400	6220	-3820	1804	5624	
T4. Tyl+Cod. 60 mg	59,600	59,600	15,888	43,712	2966		40,746
Vicodin ES	54,000	54,000	4978	49,022	3219	1	45,803
Prometh + Codeine	291 gal. ¹	291 gal.	41.77 gal.	249.23 gal.	4.77 gal.		244.41 gal.
Tussiolex	175 pts. ²	175 pts.	66.46 pts.	108.54 pts.	7 pts.		101.54 pts.

¹ "Gal." = gallon(s).

² "Pt." = pint(s).

1 FIFTH CAUSE FOR DISCIPLINE

2 **(Failure to Maintain Records of Drug Transactions)**

3 37. Respondents AR EX FIGUEROA PHARMACY , and ROBERT A.
4 GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for
5 unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4081 in
6 that between May 1, 1999 and November 23, 1999, though AR EX Figueroa dispensed over
7 90,000 doses of schedule III controlled substances, and over 240 gallons of schedule V substances
8 - all records of sale, acquisition and disposition of these drugs were not maintained for three years,
9 as required by section 4081.

10 **AR EX - STOCKER**

11 SIXTH CAUSE FOR DISCIPLINE

12 **(Failure to Maintain Records of Controlled Substances)**

13 38. Respondents AR EX PHARMACY STOCKER, and ROBERT A. GANTT
14 and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for
15 unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4081 in
16 that between July 6, 1999, and June 21, 1999, though AR EX Figueroa dispensed approximately
17 350,000 doses of schedule III and schedule IV controlled substances, and over 600 gallons of
18 schedule V substances - all records of sale, acquisition and disposition of these drugs were not
19 maintained and/or not open to inspection for three years, as required by section 4081, as follows:

20 A. Commencing on November 10, 1999, a selected drug audit was performed by
21 Board inspectors. The audit period was from May 1, 1999 through November 10, 1999. The audit
22 revealed that the following acquisition invoices all for controlled substances were not retained or
23 could not be produced by Respondents:

24

Date	Invoice No.
July 6, 1999	227127
July 16, 1999	228406
August 2, 1999	230214
November 2, 1999	241230

25
26
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Date	Invoice No.
November 4, 1999	241583
November 24, 1999	243832
May 28, 1999	652300
June 28, 1999	667746
November 2, 1999	1410334
May 5, 1999	424941
May 1, 1999	318204
May 3, 1999	3796941
May 28, 1999	3819355
June 8, 1999	3826734
June 14, 1999	3831401
June 21, 1999	3837236

(Exh. 77A.)

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain a Current Inventory)

39. Respondents AR EX PHARMACY STOCKER, and ROBERT A. GANTT and JOSEPH SHEDRED ALEXANDER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4005 and 16 California Code of Regulations Section 1718 for failure to maintain a "current inventory", in that Respondents were unable to account for approximately 350,000 doses of schedule III and schedule IV controlled substances, and over 600 gallons of schedule V substances dispensed between May 1, 1999 and November 10, 1999 as follows:

A. Commencing on November 10, 1999, a selected drug audit was performed by Board inspectors. The audit period was from May 1, 1999 through November 10, 1999. The audit revealed the following irregularities:

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<u>DRUG</u>	<u>AMOUNT ORDERED</u>	<u>AMOUNT DISPENSED</u>	<u>AMOUNT TO BE ACCT'D FOR</u>	<u>STOCK ON HAND</u>	<u>AMOUNT OVER</u>	<u>AMOUNT SHORT</u>
Dilaudid 4 mg.	22500	18395	4105	841		3264
Seconal 100 mg.	5300	7030	-1730	500	2230	
Vicodin ES	489,000	217160	271848	6768		265,080
T4	204,00	271060	-67050	4667	71727	
Prometh + Codeine	1230.6 gal.	587.72 gal.	642.88 gal.	7 pts. .87 gal.		642.01 gal.
Tussionex	32 pts.	19.80 pts.	12.2 pts.	7 pts.		5.2 pts.
Valium 10 mg.	70,500	56,740	13760	8281		5479

EIGHTH CAUSE OF DISCIPLINE

(Incorrect or Irregular Prescription Labels)

40. Respondents AR EX PHARMACY STOCKER and RICHARD A. FOSTER are subject to discipline under section 4300 for unprofessional conduct as defined in section 4301(j) and (o) in conjunction with section 4076(a) and 4059 in that during an audit commencing in November, 1999, Board inspectors reviewing prescription labels prepared by employees of Respondent Pharmacy, found errors, incorrect information or other irregularities in at least 652 of the 2300 pharmacy labels inspected as follows:

A. Inspectors found 44 prescription documents that were blank, indicating distribution of drugs had been made without a prescription. (violation of section 4059)

B. Inspectors found the following additional irregularities :

(i) 8 incorrect patient first or last name on the prescription label. (Violation of section 4076(a)(3).)

1 (ii) 15 incorrect drug or drug strength on the prescription label. (Incorrect drug
2 is a violation of Business and Professions Code section 4076(a)(1) and incorrect drug strength is a
3 violation of section 4076(a)(7).)

4 (iii) 536 incorrect directions on prescription label. (Violation of 4076(a)(2).)

5 (iv) 47 incorrect physician first or last name on prescription label. (Violation of
6 section 4076(a)(4).)

7 (v) 2 prescription documents with no name of the medication on the
8 prescription. (Violation of section 4040(a)(1)(B).)

9 NINTH CAUSE FOR DISCIPLINE

10 **(Responsibility of Pharmacist)**

11 41. Respondents AR EX PHARMACY STOCKER, and ROBERT A. GANTT
12 are subject to disciplinary action for unprofessional conduct under sections 4300 and 4301(j) and
13 (o) of the Code, in conjunction with violating Health and Safety Code section 11153 in that
14 Respondents did not assume their co-responsibility in assuring prescriptions for controlled
15 substances were issued for legitimate medical purposes, as follows:

16 A. Between December 1 and 6, 2000, in accord with their routine and
17 customary practice, Respondents filled and dispensed approximately 259 prescriptions bundled in
18 groups and in sequence from the same doctor. Approximately 126 of the 259 prescriptions were
19 for controlled substances: Vicodin ES, Phenergan with Codeine, Empirin #3 and Empirin #4,
20 Tylenol #3 and Tylenol #4, and Valium 10mg. The drugs thus dispensed were then delivered to
21 the person who submitted the bundled prescriptions.

22 B. When interviewed about this practice in July, 2001, Respondent Gantt
23 admitted that the pharmacy had not obtained consent from patients to this arrangement, and had
24 made no effort to verify that the person to whom the drugs were dispensed was an authorized
25 representative of said patients or that the patients actually received the drugs dispensed.

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1 Narcotic Enforcement on a monthly basis, regarding dispensing of schedule II controlled
2 substances.

3 TWELFTH CAUSE FOR DISCIPLINE

4 **(Failure to Maintain Records of Controlled Substances)**

5 44. Respondents AR EX PHARMACY WESTERN, and CLAUDE
6 ANTHONY REESE are subject to discipline under section 4300 for unprofessional conduct as
7 defined in section 4301(j) and (o) in conjunction with section 4081 in that between approximately
8 May and November 1999, though AR EX Western dispensed approximately 12,000 doses of
9 Tylenol and Codeine 60mg, records of these transactions were not maintained and/or not open to
10 inspection for three years, as required by section 4081.

11 THIRTEENTH CAUSE FOR DISCIPLINE

12 **(Failure to Maintain Inventory of Controlled Substances)**

13 45. Respondents AR EX PHARMACY WESTERN and CLAUDE
14 ANTHONY REESE are subject to discipline under section 4300 for unprofessional conduct as
15 defined in section 4301(j) and (o) in conjunction with section 4005 and 16 California Code of
16 Regulations Section 1718 for failure to maintain a current inventory, in that Respondents have no
17 inventory records to account for approximately 12,000 doses of Tylenol and Codeine 60 mg
18 dispensed between May and November 1999.

19 FOURTEENTH CAUSE OF DISCIPLINE

20 **(Incorrect or Irregular Prescription Labels)**

21 46. Respondents AR EX PHARMACY WESTERN and CLAUDE
22 ANTHONY REESE are subject to discipline under section 4300 for unprofessional conduct as
23 defined in section 4301(j) and (o) in conjunction with section 4076(a)(3), (a)(1),(a)(2), (a)(8)and
24 (a)(4) and 16 California Code of Regulations sections 1717 and 1717(b)(1), in that during an audit
25 commencing in November, 1999, Board inspectors reviewing prescription labels prepared by
26 employees of Respondent Pharmacy, found errors, incorrect information or other irregularities in
27 at least 1417 of the 1527 pharmacy labels inspected as follows:
28

1 A. Inspectors found 131 instances in which prescriptions had been filled, but
2 in which the pharmacist failed to initial the receipt or dispensing of the prescription.(violation of
3 16 California Code of Regulations Section 1717 and 1717(b)(1)

4 B. Inspectors found the following additional irregularities :

5 (i) 12 patient first or last names were incorrect on the prescription
6 label. (Violation of section 4076(a)(3).)

7 (ii) 581 instances in which the directions on the prescription do not
8 match the directions on the prescription label. (Violation of section 4076(a)(2).)

9 (iii) 61 instances where the physician last name and 52 instances where
10 the physician first name does not match the prescription label. (Violation of section 4076(a)(4).)

11 (iv) 5 instances where the quantity dispensed does not match the
12 quantity ordered by the physician. (Violation of section 4076(a)(8).)

13 (v) 13 instances where the name on the label of the prescription did not
14 match the name of the medication ordered by the physician. (Violation of section 4071(a)(4).)

15 OTHER MATTERS

16 48. Business and Professions Code section 4307(a) provides, in pertinent part,
17 that any person whose license has been revoked or is under suspension, or who has failed to renew
18 his or her license while it was under suspension, or who has been a manager, administrator,
19 owner, member, officer, director, associate, or partner and while acting as the manager,
20 administrator, owner, member, officer, director, associate, or partner had knowledge of or
21 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
22 placed on probation, shall be prohibited from serving as a manager, administrator, owner,
23 member, officer, director, associate, or partner of a license.

24 49. AR EX PHARMACIES INC., the license holder doing business as AR EX
25 FIGUEROA PHARMACY , AR EX PHARMACY MANCHESTER, AR EX PHARMACY
26 WESTERN and AR EX PHARMACY STOCKER , has been previously disciplined. On or about
27 July 23, 1987, in a prior disciplinary action entitled In the Matter of the Accusation Against Ar Ex
28

1 Pharmacies, Inc. before the Board of Pharmacy, in Case No. 1313, the license was placed on
2 probation, with terms and conditions, for a period of three (3) years for unprofessional conduct.

3 50. Respondent CLAUDE ANTHONY REESE was disciplined in two prior
4 matters : 1) Accusation Case No. 1447 and 2) Accusation Against Case No.1514.

5 51. Respondent ROBERT GANTT was previously disciplined in the Matter of
6 the Accusation Against Ar Ex Pharmacies, Inc. before the Board of Pharmacy, in Case No. 1313.

7 52. Respondent RICHARD FOSTER was previously disciplined in the Matter
8 of the Accusation Case No. 1222.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

12 1. Revoking or suspending Original Pharmacy Permit No. PHY 44567, issued
13 to Ar Ex Pharmacies, Inc., to do business as Ar Ex Pharmacies, Inc.,

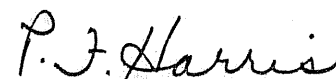
14 2. Revoking or suspending Original Pharmacist License No. RPH 17807,
15 issued to Robert A. Gantt;

16 3. Revoking or suspending Original Pharmacist License No. RPH 21138,
17 issued to Richard A. Foster;

18 4. Ordering Ar Ex Pharmacies, Inc., Robert Gantt and Richard A. Foster to
19 pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
20 pursuant to Business and Professions Code section 125.3;

21 5. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 8/23/04

24 

25 PATRICIA F. HARRIS
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN MELTON WILSON, State Bar No. 106092
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-4942
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7 **BEFORE THE**
BOARD OF PHARMACY
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2516

11 AREX PHARMACY-FIGUEROA,

STATEMENT TO RESPONDENT

12 AR EX PHARMACIES, INC.,

[Gov. Code §§ 11503, 11505, subd. (b)]

13 AREX PHARMACY MANCHESTER,

14 AR EX PHARMACY,

15 ROBERT A. GANTT,

16 RICHARD A. FOSTER,

17 CLAUDE ANTHONY REESE,

18 and

19 JOSEPH SHEDRED ALEXANDER,

20 Respondents.

21
22 TO RESPONDENTS:

23 Enclosed is a copy of the Accusation that has been filed with the Board of
24 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

25 Unless a written request for a hearing signed by you or on your behalf is delivered
26 or mailed to the Board, represented by Deputy Attorney General Susan Melton Wilson, within

27 \\\

28 \\\

1 fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you,
2 you will be deemed to have waived your right to a hearing in this matter and the Board may
3 proceed upon the Accusation without a hearing and may take action thereon as provided by law.

4 The request for hearing may be made by delivering or mailing one of the enclosed
5 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided
6 in section 11506 of the Government Code, to

7 **Susan Melton Wilson**
8 **Deputy Attorney General**
9 **Ronald Reagan Building**
10 **300 South Spring Street, Suite 1702**
11 **Los Angeles, CA 90013.**

12 You may, but need not, be represented by counsel at any or all stages of these
13 proceedings.

14 The enclosed Notice of Defense, if signed and filed with the Board, shall be
15 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
16 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
17 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
18 on you.

19 If you file any Notice of Defense within the time permitted, a hearing will be held
20 on the charges made in the Accusation.

21 The hearing may be postponed for good cause. If you have good cause, you are
22 obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los
23 Angeles, California 90013, within ten (10) working days after you discover the good cause.
24 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a
25 postponement.

26 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
27 enclosed.

28 \\\

\\

\\

If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in section 11507.6 of the Government Code in the possession, custody or control of the Board you may send a Request for Discovery to the above designated Deputy Attorney General.

NOTICE REGARDING STIPULATED SETTLEMENTS

It may be possible to avoid the time, expense and uncertainties involved in an administrative hearing by disposing of this matter through a stipulated settlement. A stipulated settlement is a binding written agreement between you and the government regarding the matters charged and the discipline to be imposed. Such a stipulation would have to be approved by the Board of Pharmacy but, once approved, it would be incorporated into a final order.

Any stipulation must be consistent with the Board's established disciplinary guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the Board's Disciplinary Guidelines will be provided to you on your written request to the state agency bringing this action.

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Susan Melton Wilson at the earliest opportunity.

SMW:jab
statement to respondent.wpt 7/24/01
60057258

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

AREX PHARMACY-FIGUEROA,
AR EX PHARMACIES, INC.,
AREX PHARMACY MANCHESTER,
AR EX PHARMACY,
ROBERT A. GANTT,
RICHARD A. FOSTER,
CLAUDE ANTHONY REESE,
and
JOSEPH SHEDRED ALEXANDER,

Respondents.

Case No. 2516

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

Notice of Defense.wpt 8/30/01

60057258

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

AREX PHARMACY-FIGUEROA,
AR EX PHARMACIES, INC.,
AREX PHARMACY MANCHESTER,
AR EX PHARMACY,
ROBERT A. GANTT,
RICHARD A. FOSTER,
CLAUDE ANTHONY REESE,
and
JOSEPH SHEDRED ALEXANDER,

Respondents.

Case No. 2516

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

Notice of Defense.wpt 8/30/01

60057258

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN MELTON WILSON, State Bar No. 106092
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-4942
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7 **BEFORE THE**
BOARD OF PHARMACY
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2516

11 AREX PHARMACY-FIGUEROA,

REQUEST FOR DISCOVERY

12 AR EX PHARMACIES, INC.,

[Gov. Code § 11507.6]

13 AREX PHARMACY MANCHESTER,

14 AR EX PHARMACY,

15 ROBERT A. GANTT,

16 RICHARD A. FOSTER,

17 CLAUDE ANTHONY REESE,

18 and

19 JOSEPH SHEDRED ALEXANDER,

20 Respondents.

21
22 TO RESPONDENTS:

23 Under section 11507.6 of the Government Code of the State of California, parties
24 to an administrative hearing, including the Complainant, are entitled to certain information
25 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
26 Government Code concerning such rights is included among the papers served.

27 \\\

28 \\\

PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
ARE HEREBY REQUESTED TO:

1. Provide the names and addresses of witnesses to the extent known to the
Respondent, including, but not limited to, those intended to be called to testify at the hearing, and

2. Provide an opportunity for the Complainant to inspect and make a copy of any of
the following in the possession or custody or under control of the Respondent:

a. A statement of a person, other than the Respondent, named in the initial
administrative pleading, or in any additional pleading, when it is claimed that the act or
omission of the Respondent as to this person is the basis for the administrative
proceeding;

b. A statement pertaining to the subject matter of the proceeding made by any
party to another party or persons;

c. Statements of witnesses then proposed to be called by the Respondent and
of other persons having personal knowledge of the acts, omissions or events which are the
basis for the proceeding, not included in (a) or (b) above;

d. All writings, including but not limited to reports of mental, physical and
blood examinations and things which the Respondent now proposes to offer in evidence;

e. Any other writing or thing which is relevant and which would be
admissible in evidence, including but not limited to, any patient or hospital records
pertaining to the persons named in the pleading;

f. Investigative reports made by or on behalf of the Respondent pertaining to
the subject matter of the proceeding, to the extent that these reports (1) contain the names
and addresses of witnesses or of persons having personal knowledge of the acts,
omissions or events which are the basis for the proceeding, or (2) reflect matters
perceived by the investigator in the course of his or her investigation, or (3) contain or
include by attachment any statement or writing described in (a) to (e), inclusive, or
summary thereof.

///

1 For the purpose of this Request for Discovery, "statements" include written
2 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
3 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
4 and written reports or summaries of these oral statements.

5 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
6 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
7 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
8 work product.

9 Your response to this Request for Discovery should be directed to the undersigned
10 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
11 **30 days after service** of the Accusation.

12 Failure without substantial justification to comply with this Request for Discovery
13 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
14 of the Government Code.

15
16 DATED: 9.8.04

17
18 BILL LOCKYER, Attorney General
19 of the State of California

20
21 
22 SUSAN MELTON WILSON
23 Deputy Attorney General

24 Attorneys for Complainant

25 SMW:jab
26 Req for discover.wpt 10/31/00
27 60057258
28

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

In the Matter of the Accusation Against:

**AR EX FIGUEROA PHARMACY, AR EX PHARMACIES, INC., AREX PHARMACY
MANCHESTER, AR EX PHARMACY, ROBERT A. GANTT, RICHARD A. FOSTER,
CLAUDE ANTHONY REESE, and JOSEPH SHEDRED ALEXANDER**

Board of Pharmacy Case No. 2516

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 9, 2004, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery and Discovery Statutes** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 So. Spring St., Los Angeles, CA 90013, addressed as follows:

AR EX FIGUEROA PHARMACY

**600 West Manchester Blvd.
Los Angeles, CA 90044**

Certified Mail No.:

7001 0360 0003 6702 5156

AR EX PHARMACY

**2829 South Western Blvd.
Los Angeles, CA 90048-3033**

Certified Mail No.:

7001 0360 0003 6702 5224

AREX PHARMACY MANCHESTER

**600 West Manchester Blvd.
Los Angeles, California 90044**

Certified Mail No.:

7001 0360 0003 6702 5217

AR EX PHARMACY

**3701 Stocker Street
Los Angeles, California 90008**

Certified Mail No.:

7001 0360 0003 6702 5200

ROBERT A. GANTT
3701 Stocker Street
Los Angeles, California 90008

Certified Mail No.:
7001 0360 0003 6702 5194

RICHARD A. FOSTER
320 West 122nd Street
Los Angeles, California 90061

Certified Mail No.:
7001 0360 0003 6702 5187

CLAUDE ANTHONY REESE
1900 South Point View
Los Angeles, CA 90034

Certified Mail No.:
7001 0360 0003 6702 5163

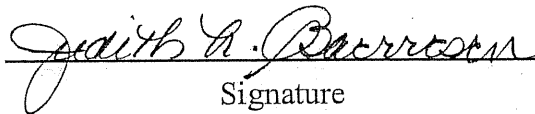
JOSEPH SHEDRED ALEXANDER
3646 Virginia Road
Los Angeles, CA 90016

Certified Mail No.:
7001 0360 0003 6702 5170

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 9, 2004, at Los Angeles, California.

Judith A. Baerresen

Typed Name


Signature

SUSAN MELTON WILSON, DAG
03583110-LA2002AD1864

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$
Certified Fee
Return Receipt Fee
(Endorsement Required)
Restricted Delivery Fee
(Endorsement Required)

Postmark
Here

ROBERT A. GANTT
3701 Stocker Street
Los Angeles, California 90008

PS Form 3800, January 2001

See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$
Certified Fee
Return Receipt Fee
(Endorsement Required)
Restricted Delivery Fee
(Endorsement Required)

Postmark
Here

CLAUDE ANTHONY REESE
1900 South Point View
Los Angeles, CA 90034

PS Form 3800, January 2001

See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$
Certified Fee
Return Receipt Fee
(Endorsement Required)
Restricted Delivery Fee
(Endorsement Required)

Postmark
Here

RICHARD A. FOSTER
320 West 122nd Street
Los Angeles, California 90061

PS Form 3800, January 2001

See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$
Certified Fee
Return Receipt Fee
(Endorsement Required)
Restricted Delivery Fee
(Endorsement Required)

Postmark
Here

JOSEPH SHEDRED ALEXANDER
3646 Virginia Road
Los Angeles, CA 90016

PS Form 3800, January 2001

See Reverse for Instructions

7001 0360 0003 6702 52156

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To AR EX Figueroa Pharmacy 600 West Manchester Blvd. Los Angeles, CA 90044 Street, Apt or PO Box City, State	
PS Form 3800, January 2001 See Reverse for Instructions	

7001 0360 0003 6702 5224

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To AR EX PHARMACY 2829 South Western Blvd. Los Angeles, CA 90048-3033 Street, Apt or PO Box City, State	
PS Form 3800, January 2001 See Reverse for Instructions	

7001 0360 0003 6702 5217

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total	
Sent To AREX PHARMACY MANCHESTER 600 West Manchester Blvd. Los Angeles, California 90044 Street or PO City	
PS Form 3800, January 2001 See Reverse for Instructions	

7001 0360 0003 6702 5200

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
To	
To AR EX PHARMACY 3701 Stocker Street Los Angeles, California 90008 Street or P City	
PS Form 3800, January 2001 See Reverse for Instructions	

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

AREX PHARMACY-FIGUEROA,
AR EX PHARMACIES, INC.,
AREX PHARMACY MANCHESTER,
AR EX PHARMACY,
ROBERT A. GANTT,
RICHARD A. FOSTER,
CLAUDE ANTHONY REESE,
and
JOSEPH SHEDRED ALEXANDER,

Respondents.

Case No. 2516

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: September 16, 2004

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

AR-EX PHARMACY-FIGUEROA, AR-EX PHARMACY
MANCHESTER, AR-EX PHARMACY, AR-EX
PHARMACIES, INC. ROBERT A. GANTT and
CLAUDE ANTHONY REESE

Jonathan K. Golden
2829 S. Western Ave.
Los Angeles, CA. 90048-3033

Check appropriate box:

☒ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

JONATHAN K. GOLDEN

Counsel's Mailing Address

1880 Century Park East, Suite 300

City, State and Zip Code

Los Angeles, CA. 90067

Counsel's Telephone Number

(310) 553-3830 Fax (310) 553-1337

- ☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

Notice of Defense.wpt 8/30/01

60057258

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1880 Century Park East, Suite 300, Los Angeles, California 90067-1666.

On September 16, 2004, I served the foregoing document described as NOTICE OF DEFENSE on the interested parties in this action.

_____ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list;

X by placing a true copy thereof enclosed in sealed envelopes addressed as follows:
Susan Melton Wilson
Deputy Attorney General
300 S. Spring Street
Suite 1702
Los Angeles, CA. 90013

X BY MAIL:

X I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

_____ I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

_____ BY PERSONAL SERVICE

I delivered such envelope by hand to the office of the addressee.

Executed on, Sept. 16, 2004 at Los Angeles, California.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

_____ (Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.


Jonathan K. Golden